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J. Ford. From a decree denying relief prayed for, for want of equity, claimant appeals. Reversed and remanded.

Scott & Buchanan, of Richmond, for appellant:

A. B. Dickinson, Abner C. Goode, and W. P. De Saussure, all of Richmond, for appellees.

JOHNSON *v.* BUTTON, Ins. Com'r, et al.

Jan. 11, 1917.

[91 S. E. 151.]

1. Insurance (§ 84 (2)*)—Compensation of Agents—Insolvency of Company.—An insurance agent cannot be required to return part of his commissions, where the insurer becomes insolvent, requiring return of part of the premiums.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 111; Dec. Dig. § 84 (2)* 7 Va.-W. Va. Enc. Dig. 761.]

2. Insurance (§ 63*)—Return of Premium—Insolvency of Company.—Insolvency of insurer entitles policy holders to return premiums on the "pro rata," instead of the "short rate," basis.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 86-88; Dec. Dig. § 63* 7 Va.-W. Va. Enc. Dig. 793.]

3. Insurance (§ 64*)—Foreign Companies—Ancillary Proceedings on Insolvency.—It is proper, in ancillary proceedings in respect to an insolvent foreign insurance company, to decree that premiums collected by the receiver from subagents be turned over to the general agent, instead of directing settlement therein between such agent and the subagents and the company, or that it be held to await a settlement between all parties; the general agent being liable to the company for premiums, and being under sufficient bond.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 89; Dec. Dig. § 64.* 7 Va.-W. Va. Enc. Dig. 796.]

4. Insurance (§ 64*)—Accounting by Agent—Insolvent Foreign Company.—The proper place for a settlement by the general agent for two states of an insolvent insurance company of another state is in the suit in that state for general liquidation of the company's business, and not in ancillary proceeding in one of the other two states.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 89; Dec. Dig. § 64.* 7 Va.-W. Va. Enc. Dig. 796.]

5. Insurance (§ 63*).—The agent of an insurance company to whom, when it became insolvent, policy holders assigned their policies, has

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

the same rights as to return of premiums, including liens on securities with the state treasurer, as other policy holders.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 86-88; Dec. Dig. § 63.* 7 Va.-W. Va. Enc. Dig. 793.]

Appeal from Circuit Court of City of Richmond.

Ancillary proceeding by Joseph Button, Commissioner of Insurance, and others, against the American Union Fire Insurance Company, a foreign insolvent company. From the decree. Charles Johnson, general receiver of the company, appeals; cross-error being assigned. Amended and affirmed.

Kelly & Coulbourn, of Richmond, for appellant.

John B. Minor, of Richmond, and *J. Winston Read*, of Newport News, for appellees.

WESTERN UNION TELEGRAPH CO. *v.* BOLLING.

Jan. 11, 1917.

[91 S. E. 154.]

1. Commerce (§ 28*)—Telegrams.—The transmission of intelligence by wire is "commerce."

[Ed. Note.—For other cases, see Commerce, Cent. Dig. § 22; Dec. Dig. 28.* 7 Va.-W. Va. Enc. Dig. § 872.

For other definitions, see Words and Phrases, First and Second Series, Commerce.]

2. Commerce (§ 28*)—"Interstate Commerce"—Telegram.—The transmission of a telegram between two points within the state over a line which passes out of the state and requires relaying the message outside of the state is "interstate commerce."

[Ed. Note.—For other cases, see Commerce, Cent. Dig. § 22; Dec. Dig. § 28.* 7 Va.-W. Va. Enc. Dig. 874.

For other definitions, see Words and Phrases, First and Second Series, Interstate Commerce.]

3. Commerce (§ 8*)—Regulation—Telegraph Companies—State Statutes.—Congress, by the act to regulate commerce (Act Feb. 4, 1887, c. 104, § 1, 24 Stat. 379, as amended June 18, 1910 (Act June 18, 1910, c. 309, § 7, 36 Stat. 544 [U. S. Comp. St. 1913, § 8563]), which provides that telegraph companies engaged in interstate commerce shall be deemed common carriers, and § 15 of which requires such companies to file with the Interstate Commerce Commission the rates of charges and authorizes the commission to determine what shall be just and reasonable rates and what regulations or practices are fair and reasonable, occupied the field of regulating interstate

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.